

## **Subpart D—Conditions on Acceptance/Use of Federal Money**

### **§ 84.40 What conditions must I follow to accept Federal grant money?**

- (a) The audit requirements for State and local governments (43 CFR part 12), and
- (b) The uniform administrative requirements for grants and cooperative agreements with State and local governments (43 CFR part 12).

### **§ 84.41 Who prepares a grant agreement? What needs to be included?**

The coastal State and the Fish and Wildlife Service work together to develop a Grant Agreement (Form 3-1552) upon completion of the review by the Regional Director to determine compliance with applicable Federal laws and regulations. The Grant Agreement includes the grant title, the grant cost distribution, the agreement period, other grant provisions, and special grant conditions. If a Coastal Barrier Unit is affected, the Service must conduct internal consultations pursuant to Section 6 of the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act, prior to providing any grant monies to that State.

### **§ 84.42 What if a grant agreement is not signed?**

Monies that have been allocated for a grant will be held until December 31 of the following year. If a grant agreement has not been signed by the State and the Service and, therefore, the money has not been obligated for the approved grant by that date, the funds automatically are returned to the Program account in Washington.

### **§ 84.43 How do States get the grant monies?**

Funding to States is provided on a reimbursable basis. See § 84.47 for information on what costs can be reimbursed. The Service may reimburse the State for projects completed, or make payments as the project progresses. For construction work and labor, the Service and the State may jointly determine, on a case-by-case basis, that payments may be made in advance. We will minimize the time elapsing be-

tween the transfer to the State and the State's need for the funds, and the time period will be subject to a specific determined need for the funds in advance. Except for extenuating circumstances, a reasonable time period to advance funds to a State is up to 3 days. OMB Circular A-102, Parts II and III, 43 CFR part 12, and 31 CFR part 205 provide specific information on methods and procedures for transferring funds.

### **§ 84.44 What is the timetable for the use of grant money?**

Once money is granted to the coastal States, the money is available to those States for the time designated in the grant agreement. If a State needs more time, the State must apply for an extension of time by amending the grant agreement. If the Service does not extend the time, the unobligated monies return to the Service for expenditure on future grants. Also, if a State cannot spend the money on the approved project, the State must notify the appropriate Regional Director as soon as possible so that the money can revert back to the Service for future grants.

### **§ 84.45 How do I amend a proposal?**

Following procedures in 43 CFR 12.70, you must submit a signed original and two copies of the revised SF 424, the revised portion of the project statement if appropriate, and an explanation of the reason for the revision to the Regional Director (Federal Aid).

### **§ 84.46 What are the cost-sharing requirements?**

(a) Except for certain insular areas, the Federal share of an approved grant will not exceed 50 percent of approved costs incurred. However, the Federal share may be increased to 75 percent for coastal States that have established and are using a fund as defined in § 84.11. The Regions must certify the eligibility of the fund in order for the State to qualify for the 75 percent matching share.

(b) The following insular areas: American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, have been exempted from the matching share, as provided in Pub. L. 95-134, amended by Pub. L. 95-348, Pub. L. 96-

205, Pub. L. 98-213, and Pub. L. 98-454 (48 U.S.C. 1469a). Puerto Rico is not exempt from the match requirements of this Program.

(c) The State may provide materials (e.g., heavy equipment) or other services as a noncash match for portions of the State's matching share. The State may also provide the value of land, including the land proposed for restoration, enhancement, or management as a noncash match, provided that the land is necessary and reasonable for completing the project. For example, if a State proposes to manage a contiguous wetland of 100 acres, and already owns 10 of the 100 acres, the State can apply the current value of the 10 acres, provided that the 10 acres are necessary to manage the entire 100 acres. If the 10-acre wetland were not contiguous and no connection could be made that the 10 acres were needed to manage the proposed wetland, the State could not use the 10 acres as a noncash match. Review 43 CFR 12.64 for determining the value of in-kind contributions.

(d) The requirements in 43 CFR 12.64 and Service Manual Part 522 FW 1.13<sup>5</sup> apply to in-kind matches or cost-sharing involving third parties. Third party in-kind contributions must represent the current market value of noncash contributions furnished as part of the grant by another public agency, private organization, or individual. In-kind matches must be necessary and reasonable to accomplish grant objectives.

(e) Coastal States must commit to their matching share of the total costs by signing the Application for Federal Assistance (SF 424), the Assurances (SF 424B or SF 424D), and the Grant Agreement (Form 3-1552).

(f) No Federal monies, non-Federal monies, in-kind contributions, or National Fish and Wildlife Foundation grant program monies that will be or have been previously used to satisfy the matching requirement of another Federal grant can be used as part of the coastal State's matching share.

(g) The coastal State is responsible for ensuring the full amount of that State's matching requirement, either with State funds or from contributions toward the proposal from other agencies, groups, or individuals. Sources other than State applicant funds must be documented and approved as eligible.

(h) Total Federal contributions (including all Federal sources outside of the Program) may not exceed the maximum eligible Federal share under the Program. This includes monies provided to the State by other Federal programs. If the amount of Federal money available to the project is more than the maximum allowed, we will reduce the Program contribution by the amount in excess.

(i) Natural Resource Damage Assessment funds that are managed by a non-Federal trustee are considered to be non-Federal, even if these monies were once deposited in the Department of the Interior's Natural Resource Damage Assessment and Restoration Fund, provided the following criteria are met:

(1) The monies were deposited pursuant to a joint and indivisible recovery by the Department of the Interior and non-Federal trustees under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or the Oil Pollution Act (OPA);

(2) The non-Federal trustee has joint and binding control over the funds;

(3) The co-trustees agree that monies from the fund should be available to the non-Federal trustee and can be used as a non-Federal match to support a project consistent with the settlement agreement, CERCLA, and OPA; and

(4) The monies have been transferred to the non-Federal trustee.

#### § 84.47 What are allowable costs?

(a) Allowable grant costs are limited to costs necessary and reasonable to achieve approved grant objectives and meet the applicable Federal cost principles in 43 CFR 12.62 (b).

(b) If a project or facility is designed to include purposes other than those eligible under the Act, the costs must be prorated among the various purposes.

<sup>5</sup>From the Fish and Wildlife Service Manual, available on-line at <http://www.fws.gov/directives/index.html>.